



ANALYSIS

Title	
Preamble	
1. Short Title	
2. Validation of deed	
3. Dissolution of Whangarei Airport Board	
4. Finance	
5. Special Reserve Fund for maintenance	
6. Salaries, fees, and travelling allowances	
	7. Committee representation
	8. Powers of Whangarei Borough Council under Local Authorities Empowering (Aviation Encouragement) Act 1929
	9. Bylaws
	10. Leasing powers
	11. Powers as to surrender of lease and reduction of rent
	12. Repeal

1963, No. 17—*Local*

An Act to make provision for the reconstruction, development, maintenance, control, and management of the Whangarei Airport
 [25 October 1963]

WHEREAS by deed dated the twenty-sixth day of August, nineteen hundred and sixty-three, made between Her Majesty the Queen acting by and through the Minister of Works and the Minister in Charge of Civil Aviation of the one part, and the Mayor, Councillors, and Citizens of the Borough of Whangarei, the Chairman, Councillors, and Inhabitants of the County of Whangarei, the Chairman, Councillors, and Citizens of the Town District of Kamo, and the Chairman, Councillors, and Citizens of the Town District of Hikurangi of the other part (which said deed is hereinafter referred to as "the principal deed"), it has been agreed that certain work shall be carried out for the reconstruction, development, and maintenance of the Whangarei Airport on the terms and conditions more particularly set out therein: And whereas by deed dated the twentieth day of August, nineteen hundred and sixty-three, made between the Mayor, Councillors, and Citizens of the Borough of Whangarei of the first part, the Chairman, Councillors, and Inhabitants of the County of

Whangarei of the second part, the Chairman, Councillors, and Citizens of the Town District of Kamo of the third part, and the Chairman, Councillors, and Citizens of the Town District of Hikurangi of the fourth part (which said deed is hereinafter referred to as "the subsidiary deed"), it has been agreed that the management of the Whangarei Airport should be undertaken by the Whangarei Borough Council under the direction of a joint committee of the said local authorities: And whereas the subsidiary deed sets out the powers of the said Whangarei Borough Council and the said joint committee and provides for representation on the said joint committee and the contribution by the said local authorities towards the costs of establishing, reconstructing, developing, maintaining, controlling, and managing the said Whangarei Airport: And whereas it is expedient that the Whangarei Airport Board (a body corporate established under the Whangarei Airport Act 1937) should be dissolved, that the property of the Board should vest in the Whangarei Borough Council, and that the Whangarei Airport Act 1937 should be repealed:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title—This Act may be cited as the Whangarei Airport Act 1963.

2. Validation of deed—The principal deed and the subsidiary deed are hereby respectively validated and declared to be lawfully executed by the parties thereto, and the parties thereto are hereby empowered to do all such things as shall be necessary to carry into effect the terms thereof, notwithstanding anything to the contrary in any Act or rule of law.

3. Dissolution of Whangarei Airport Board—(1) Notwithstanding anything contained in the Whangarei Airport Act 1937, the Whangarei Airport Board shall be deemed to have been dissolved as from the twenty-eighth day of August, nineteen hundred and sixty-three, and all property and assets of any kind belonging to the Board are hereby vested as from that date without conveyance or assignment in the Mayor, Councillors, and Citizens of the Borough of Whangarei subject to all charges, encumbrances, estates, and interests affecting the same, to be held by the Whangarei Borough

Council for the purposes of managing, maintaining, and controlling the Whangarei Airport as in the principal deed provided; and all liabilities of the Board shall be deemed to be liabilities of the Whangarei Borough Council.

(2) In any case where any land vests in the Mayor, Councillors, and Citizens of the Borough of Whangarei under this section, the District Land Registrar for the North Auckland Land Registration District shall, on the written request of the Whangarei Borough Council, and on the deposit with him of such plans and documents as he may require, make such entries in the register and generally do all such things as may be necessary to give full effect to the provisions of this section.

4. Finance—(1) The Whangarei Borough Council is hereby authorised and deemed to have always been authorised from time to time to borrow money under the Local Authorities Loans Act 1956, and to use the money borrowed for the purposes of carrying into effect the terms and conditions of the principal deed and the subsidiary deed, and the said Council is hereby empowered to hold all such money and expend the same for the purposes aforesaid, and to recover from each of the other local authorities signatories to the subsidiary deed for capital repayment and interest the proportions thereof more particularly set forth in the subsidiary deed or such other proportions as shall from time to time be agreed as therein provided, and all actions of the said Council in so doing are hereby validated.

(2) Nothing in the Local Authorities Empowering (Aviation Encouragement) Act 1929 or in Part I of the Local Authorities Loans Act 1956 shall apply to money payable under the subsidiary deed by any local authority.

(3) For the purpose of providing any of the money to be paid or expended by any local authority under the subsidiary deed, the local authority shall, in addition to any other rating power, have power to make, levy, and collect a rate over the whole of its district or over any defined part which, in its opinion, particularly benefits by the works.

5. Special Reserve Fund for maintenance—Notwithstanding that the runways, taxiways, and common user apron areas in use or to be used at the Whangarei Airport are on land the property of the Crown, the Whangarei Borough

Council is hereby empowered to set aside money from time to time to form a fund or funds for the resealing and resurfacing of the said runways, taxiways, and common user apron areas as if in fact the said runways, taxiways, and common user apron areas were the property of the said Council, and the powers of the said Council as set out in section 143 of the Municipal Corporations Act 1954 may be exercised accordingly.

6. Salaries, fees, and travelling allowances—The Whangarei Borough Council is hereby authorised to pay to all members of the joint committee constituted as provided in the subsidiary deed remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the committee were a statutory Board within the meaning of that Act:

Provided that the remuneration received by any member of the joint committee under this section, together with any remuneration that the member may receive pursuant to section 114A of the Municipal Corporations Act 1954 or, as the case may be, section 137A of the Counties Act 1956, shall not in any financial year exceed the total amount authorised to be paid under the provisions of those sections to any Councillor in any financial year.

7. Committee representation—Notwithstanding that each of them the said Whangarei County Council, the said Kamo Town Council, and the said Hikurangi Town Council, has not been constituted an aviation authority as provided in the Local Authorities Empowering (Aviation Encouragement) Act 1929, the said local authorities are hereby empowered to appoint members to the joint committee as provided in the subsidiary deed, and the members so appointed are hereby empowered to act in conducting the affairs of the joint committee as if the said local authorities were duly constituted aviation authorities; but, except as herein specifically provided, this enactment shall not constitute nor be deemed to constitute the said local authorities as aviation authorities within the meaning of the Local Authorities Empowering (Aviation Encouragement) Act 1929 or any other Act.

8. Powers of Whangarei Borough Council under Local Authorities Empowering (Aviation Encouragement) Act 1929—In carrying out the functions and exercising the powers of an aviation authority under the Local Authorities Empowering (Aviation Encouragement) Act 1929 the Whangarei Borough Council may carry out and exercise all such powers and functions except in so far as the same are limited by the principal deed; and in so doing it shall be under the direction of the joint committee constituted as provided in the subsidiary deed, but only in so far as that direction is specifically provided for in this Act, the principal deed, or the subsidiary deed.

9. Bylaws—Subject to the provisions of section 46 of the Statutes Amendment Act 1936, the Whangarei Borough Council may, after having been duly authorised by the joint committee constituted as provided in the subsidiary deed so to do, exercise the powers to make bylaws conferred by section 6 of the Local Authorities Empowering (Aviation Encouragement) Act 1929, and in addition and in like manner may make such bylaws as it thinks fit for all or any of the following purposes:

- (a) The good rule and government of the airport:
- (b) The more effectual carrying out of any of the objects of the establishment, maintenance, control, and management of the airport:
- (c) Regulating, controlling, or prohibiting any act, matter, or thing usually the subject of regulation, control, or prohibition by the controlling authorities of airports:
- (d) Protecting any property used in the operation of the airport from damage or injury:
- (e) Prescribing precautions to be taken for the protection of the airport and of aircraft hangars, workshops, and other buildings from fire:
- (f) Regulating traffic, whether pedestrian or vehicular, and the provision and use of parking places for vehicles:
- (g) Prescribing the times, terms, and conditions upon which the public may enter or be in or upon the airport or be excluded therefrom or any part thereof.

10. Leasing powers—(1) Subject to the directions of the joint committee as hereinafter provided, the Whangarei Borough Council may, with the approval of the Director of Civil Aviation and subject to the terms and conditions here-

inafter mentioned, and upon such additional terms and conditions not inconsistent with the provisions of this Act as it deems fit, grant leases of any land the property of the said Council, being part of the airport, upon terms permitting the lessee to erect thereon any buildings for the housing, repair, and construction of aircraft, or for accommodation houses, hotels, general stores, petrol stations, or any other buildings, equipment, or appurtenances necessary or desirable in the opinion of the said Council for the purposes of the airport.

(2) Any such lease may be for such term and may contain such rights of renewal as the said Council, with the approval of the Director of Civil Aviation, may think fit.

(3) No building shall be erected by the lessee except in accordance with plans and specifications approved by the Whangarei Borough Council and complying with the provisions of any bylaws of the said Council applying thereto.

(4) If at any time during the term of any such lease the land demised thereby or any part thereof is required by the said Council for the purposes of the airport, the said Council may terminate that lease as to the whole of the demised land, or as to so much thereof as is required as aforesaid, without liability for the payment of compensation (unless the same is expressly authorised as hereinafter mentioned by the provisions of the lease), or liability to any action, or claim for damages, in respect of the termination.

(5) Any such lease may contain a provision that, upon the termination thereof as to the whole of the demised land or as to so much thereof as is required as aforesaid, the said Council shall pay to the lessee on behalf of the parties to the subsidiary deed compensation for the then value of the buildings then upon the demised land, or the part thereof resumed, as the case may be, such value to be determined at the time of the termination of the lease; and if not mutually agreed upon the value shall be determined by two arbitrators and their umpire pursuant to the provisions of the Arbitration Act 1908, and this section shall be deemed to be a submission within the meaning of that Act:

Provided that no such provision as aforesaid shall be contained in any such lease, or if contained therein shall have any effect, unless a further provision be inserted therein fixing the maximum value of any buildings to be erected by the lessee upon the demised land, and under no circumstances whatsoever shall the compensation payable to the lessee under the lease exceed the maximum value so fixed.

(6) If at any time during the term of any such lease the said Council, having first obtained the approval of the joint committee, is of the opinion that any building, erection, tree, or thing on any part of the demised land restricts or may restrict, or in any way interfere with, the manoeuvring of aircraft on or over the airport, or in any way whatsoever interferes with the full and efficient use of the airport, the said Council may require the lessee to remove the building, erection, tree, or thing without the payment of compensation or liability to any action or claim for damages in respect thereof, except as provided in subsection (7) of this section. In any such event the said Council shall give written notice to the lessee requiring him, within a period stated in the notice, to remove the building, erection, tree, or thing; and if the lessee fails, neglects, or refuses to comply with the provisions of any such notice within the period therein mentioned the said Council may effect such removal, and the lessee shall, upon demand by the said Council, pay to it the expenses incurred in and about the removal, or at its option the said Council may terminate the lease and all the rights or privileges of the lessee thereunder.

(7) If under subsection (6) of this section the said Council requires or effects the removal of any building or erection erected by the lessee under and in accordance with provisions of the lease, the said Council shall pay to the lessee on behalf of the parties to the subsidiary deed reasonable compensation therefor, to be determined by reference to the lessee's interest therein as at the time of the removal; and if not mutually agreed upon the compensation shall be determined by two arbitrators and their umpire pursuant to the provisions of the Arbitration Act 1908, and this section shall be deemed to be a submission within the meaning of that Act.

(8) The provisions of the Land Act 1948, the Public Works Act 1928, the Municipal Corporations Act 1954, the Counties Act 1956, or of any other Act relating to the subdivision of land for sale or lease or other disposition, or to the construction of roads, shall not apply to the subdivision of any land being part of the airport for all or any of the purposes set out in subsection (1) of this section, or to the laying out on the airport of access roads to the land so subdivided:

Provided that nothing in this subsection shall affect in any way the operation of the provisions of section 167 of the Land Transfer Act 1952.

11. Powers as to surrender of lease and reduction of rent—The Whangarei Borough Council may, subject to the consent of the joint committee, by special resolution,—

- (a) Accept, on such terms and conditions as it thinks fit, a surrender of any lease, whether with respect to the whole or any part of the land comprised in the lease:
- (b) At any time or times during the currency of a lease, reduce the rent to be paid thereunder during the remainder or any part of the remainder of the term:
- (c) At any time or times during the currency or after the determination of a lease, compromise with the lessee for any rent due by him or waive breaches of any term or condition of any lease.

12. Repeal—The Whangarei Airport Act 1937 shall be deemed to have been repealed on the twenty-eighth day of August, nineteen hundred and sixty-three.
